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Attorneys for Defendants
COINBASE, INC., BRIAN ARMSTRONG
and DAVID FARMER

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JEFFREY BERK, et al.,

Plaintiffs,

vs.

COINBASE, INC., et al.,

Defendants.

Case No.: 18-cv-01364-VC

**JOINT CASE MANAGEMENT
STATEMENT**

Date: August 21, 2019

Time: 10:00 a.m.

Judge: Hon. Vince Chhabria

Ctrm: 4, 17th Floor

The parties jointly submit this Subsequent Case Management Statement in advance of the upcoming August 21, 2019 Case Management Conference. The parties have previously submitted a full Joint Case Management Statement, *see* Dkt. 28, as well as a supplemental Second Joint Case Management Statement, *see* Dkt. 69. Pursuant to Local Rule 16-10(d), the parties will focus this statement only on “progress or changes since the last statement was filed” and “proposals for the remainder of the case development process.”

1. Amendment of Pleadings

Plaintiffs do not presently intend to amend the operative complaint. Defendant Coinbase will file an answer by September 3, 2019, subject to the parties’ stipulation, filed August 9, 2019 (ECF No. 76).

Because the Court’s August 2019 Order dismissed with prejudice all counts that had been pled against Brian Armstrong and David Farmer (Counts III-VIII, *see* Second Amended Class Action Complaint (ECF No. 51) at 43–50), the parties agree that Messrs. Armstrong and Farmer are not currently parties to this case and accordingly are not required to file any answer or other response to the Second Amended Class Action Complaint.

Plaintiffs state that they reserve the right to seek leave to amend and plead additional claims against Armstrong and Farmer at a later date. Defendants reserve all rights to oppose any such amendment.

Additionally, Coinbase’s position is that, pursuant to the Court’s August 2019 Order, the claims asserted by Plaintiffs Preetham Periaswami and Niko Younts have been dismissed. Accordingly, Coinbase does not believe that its needs to respond to allegations that solely pertain to claims asserted by Periaswami and Younts.

2. Discovery

A. Plaintiffs’ Position

Plaintiffs served a set of requests for production of documents (the “First RFPs”) and interrogatories (the “First Interrogatories”) on Defendants on May 10, 2018, and a second set of requests for production of documents (the “Second RFPs”), and interrogatories (the “Second Interrogatories”) on October 24, 2018. Defendants have responded and made limited document

productions. The parties have exchanged extensive correspondence concerning the adequacy of Defendants' responses to Plaintiffs' discovery requests and have engaged in at least one extensive telephonic meet and confer. Although the parties have agreed upon certain compromises, Plaintiffs believe that certain responsive documents remain outstanding. Plaintiffs intend to serve further discovery, particularly in light of the Court's ruling on August 6, 2019 ruling and the expiration of any stay of discovery (if in fact, there was such a stay). If the parties cannot resolve any outstanding issues, the parties will file a joint letter brief in accordance with the Court's Standing Order for Civil Cases ("Standing Order"). Moreover, Plaintiffs do not believe that the Action should be stayed pending the recently filed appeal. The Action has been pending for over seventeen months, and little discovery has taken place during that time. At a minimum, discovery should proceed during the pendency of the appeal.

B. Defendants' Position

Defendants went to significant lengths to provide early discovery to Plaintiffs—including responses to no fewer than 27 RFPs and 12 interrogatories—even before Plaintiffs' theory of the case was clear or the pleadings settled. Coinbase will evaluate Plaintiffs' further discovery when it is received and respond accordingly. As set forth below, however, Coinbase has filed a motion to stay proceedings before this Court pending resolution of its appeal to the Ninth Circuit of the order denying Defendants' motion to compel arbitration.

3. Class Actions

The parties address the issue of how and when a class will be certified in the Schedule below.

4. Settlement and ADR

The parties remain willing to discuss potential mediation or other forms of ADR.

5. Scheduling

A. Plaintiffs' Position

Plaintiffs' proposed schedule is attached hereto as Appendix A, and is similar to one earlier proposed but extended by the 10 months—[Dkt. No. 40], to reflect the time spent on the

last round of motions. Plaintiffs do not agree that Defendants' requested stay of these proceeding are warranted and note that the action has been pending for over 17 months with little discovery. Plaintiffs believe that the Action should proceed regardless of Defendants' appeal, discussed below.

B. Defendants' Position

On August 12, 2019, Coinbase, Armstrong, and Farmer filed a Notice of Appeal of the Court's denial of defendants' motion to compel arbitration (ECF No. 77) and moved to stay this case pending that appeal (ECF No. 78). Coinbase set the motion to stay hearing on the first available calendar date on which Plaintiffs' counsel initially said they were available—October 17, 2019.¹ Coinbase does not wish to delay resolution of this motion and asks that the parties discuss whether it would be possible to advance the hearing at the case management conference when all parties and the Court can consult their calendars to determine if an earlier date is possible.²

To the extent it is not possible to advance the hearing on Coinbase's motion to stay earlier than October, the parties have conferred and agreed that the hearing should be re-set for October 10, 2019. Further, Plaintiffs have requested a modification of the briefing schedule on the motion to stay in order to accommodate prior conflicts and other obligations for Plaintiffs' counsel. To the extent the hearing date is not advanced, Coinbase is willing to accommodate this request, and agrees that Plaintiffs' opposition can be filed by September 12, 2019, with Coinbase's reply due on September 26, 2019. If this schedule is agreeable to the Court, the parties can provide a stipulation and proposed order after the case management conference.

As to the overall case schedule, Coinbase believes it is premature to set a trial date, discovery deadlines, or further motion dates until its motion to stay is resolved. But should the

¹ As set forth below, Plaintiffs' counsel has since informed defense counsel that they are available on October 10, 2019.

² Plaintiffs' counsel has informed Coinbase that they have a prior court appearance before the Hon. Beth Labson Freeman on September 26, 2019. They have further indicated that they are unable to brief the motion prior to mid September, 2019 given their commitments in that case.

Court require dates to be set at this time, Defendants' proposed case schedule os attached hereto as Appendix B.

DATED: August 14, 2019

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DATED: August 14, 2019

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ATTESTATION

I hereby attest that I have obtained concurrence in the filing of this document from each of the other persons whose signatures are indicated by a conformed signature (/S/) within this e-filed document.

DATED: August 14, 2019

/s/ Robert S. Green

Robert S. Green

APPENDIX A: PLAINTIFFS' PROPOSED SCHEDULE

Event	Date/Deadline
Deadline to Amend Pleadings	August 22, 2019
Merits Experts: Opening Reports	April 6, 2020
Rebuttal Reports	May 4, 2020
Merits Expert Discovery Completed by	May 25, 2020
Fact Discovery Cutoff	June 15, 2020
Deadline to File Dispositive Motions	June 22, 2020
Deadline to File Oppositions to Dispositive Motions	July 13, 2020
Deadline to File Replies ISO Dispositive Motions	July 27, 2020
Hearing on Dispositive Motions	August 13, 2020 at 10 a.m.
Deadline to File Class Cert. Motion	August 24, 2020
Deadline to File Opposition to Class Cert. Motion	September 14, 2020
Class Cert. Expert Discovery Cutoff Deadline to File Reply ISO Class Cert. Motion	September 28, 2020
Hearing on Class Certification Motion	October 8, 2020 at 10 a.m.
Pretrial Conference	January 18, 2021 at 1:30 p.m.
Trial	February 16, 2021

APPENDIX B: DEFENDANTS' PROPOSED SCHEDULE

Event	Date/Deadline
Deadline to Amend Pleadings	August 20, 2019
All Fact Discovery Completed by	June 1, 2020
Experts: Opening reports on issues on which party bears the burden of proof	June 15, 2020
Experts: Rebuttal Reports	July 15, 2020
All Expert Discovery Completed by	August 7, 2020
Deadline to File Class Cert. Motion	August 31, 2020
Deadline to File Opposition to Class Cert. Motion	September 24, 2020
Deadline to File Reply ISO Class Cert. Motion	October 8, 2020
Hearing on Class Certification Motion	October 22, 2020 at 10am
Deadline to File Dispositive Motions	November 24, 2020
Deadline to File Oppositions to Dispositive Motions	December 21, 2020
Deadline to File Replies ISO Dispositive Motions	January 14, 2021
Hearing on Dispositive Motions	January 28, 2021 at 10am
<u>Joint Pretrial Conference Statement</u>	<u>April 26, 2020</u>
Pretrial Conference	May 24, 2021 at 1:30pm
Trial	June 21, 2021